

By Senator Rouson

19-00404A-18

20181084__

1 A bill to be entitled
2 An act relating to pay-for-success contracts; creating
3 s. 287.05715, F.S.; providing definitions; authorizing
4 a state agency to enter into a pay-for-success
5 contract with a private entity under certain
6 conditions, subject to an appropriation and specified
7 language in the General Appropriations Act;
8 authorizing an agency to carry forward specified
9 unexpended appropriations under certain circumstances;
10 providing contract requirements; authorizing
11 cancellation of the contract under specified
12 circumstances; specifying services and programs that
13 are eligible for funding under a pay-for-success
14 contract; prohibiting a private entity from viewing or
15 receiving certain information that is otherwise
16 confidential and exempt from public records
17 requirements; requiring an agency to provide an annual
18 report containing certain data to the chairs of the
19 legislative appropriations committees by a specified
20 date; providing that capital obtained from a private
21 entity under the contract is not considered a
22 procurement item; requiring the Department of
23 Management Services to prescribe certain procedures by
24 a specified date; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 287.05715, Florida Statutes, is created
29 to read:

19-00404A-18

20181084__

30 287.05715 Pay-for-success contracts.-

31 (1) As used in this section, the term:

32 (a) "Pay-for-success contract" or "contract" means a
33 written agreement executed between an agency and a private
34 entity in which the agency agrees, contingent upon a specified
35 service or program meeting specified performance targets and
36 outcome measures, to reimburse the private entity for up-front
37 capital it will provide to fund a service or program identified
38 in subsection (4) which addresses a critical public problem.

39 (b) "Private entity" means a private, not-for-profit
40 organization, or a subsidiary or an affiliate thereof, that is
41 exempt from federal income taxation pursuant to s. 501(c)(3) of
42 the Internal Revenue Code of 1986 and that enters into a pay-
43 for-success contract with an agency.

44 (c) "Service provider" means an entity that provides
45 services on behalf of a private entity under a pay-for-success
46 contract.

47 (d) "Success payment" means a single payment or schedule of
48 payments which is identified in a pay-for-success contract to be
49 paid to a private entity when specified performance targets and
50 outcome measures are met.

51 (2) (a) Contingent upon a specific appropriation in the
52 General Appropriations Act which includes funding for a service
53 or program identified in subsection (4) and contains proviso, as
54 defined in s. 216.011, authorizing a pay-for-success contract
55 and specifying the term of such contract, an agency may enter
56 into a pay-for-success contract with a private entity to receive
57 up-front capital from the entity to fund the service or program.
58 The agency may not enter into a pay-for-success contract until

19-00404A-18

20181084__

59 the state agency head determines with reasonable certainty that
60 the contract will result in quantifiable public benefits and
61 monetary savings to the state or a local government by reducing
62 or avoiding costs, increasing economic productivity, or
63 improving client outcomes.

64 (b) Notwithstanding any law to the contrary, unexpended
65 funds under paragraph (a) shall be carried forward into the
66 succeeding fiscal year if the agency notifies the Legislature
67 that the service or program under a pay-for-success contract
68 warrants that the funds be carried forward. Unexpended funds for
69 which an agency does not provide such notification shall revert
70 to the fund from which they were appropriated.

71 (3) Each pay-for-success contract must:

72 (a) Require a private entity to underwrite or secure up-
73 front capital from private funding sources, including
74 foundations, financial institutions, businesses, or individuals.

75 (b) Identify the specific service or program, as set forth
76 in subsection (4), to be funded under the contract.

77 (c) Identify performance targets and outcome measures
78 against which the service's or program's success can be measured
79 to determine whether the service or program has achieved
80 quantifiable public benefits and monetary savings.

81 (d) Require an independent third-party evaluator to review
82 and issue a report in the middle and at the end of the contract
83 term specifying the degree to which the service or program has
84 met the identified performance targets and outcome measures.

85 (e) Identify the calculation or algorithm to be used by the
86 agency in determining the amount and timing of reimbursable
87 success payments to the private entity. The amount of each

19-00404A-18

20181084__

88 success payment must correlate with the independent third-party
89 evaluator's review under paragraph (d).

90 (f) Contain a statement that the service provider will
91 annually provide a report to the agency which includes data
92 deemed relevant by the agency.

93 (g) State that the amount of funds to be reimbursed to the
94 private entity is contingent upon the degree to which the
95 service or program has met the performance targets and outcome
96 measures as evaluated by the independent third-party evaluator.

97 (h) Require the agency to make the appropriate success
98 payment to the private entity within 60 days after receiving a
99 report from the independent third-party evaluator.

100 (i) Contain a provision authorizing cancellation of the
101 contract if the agency believes the degree to which the service
102 or program has met the identified performance targets and
103 outcome measures, as reported by the third-party evaluation, is
104 insufficient to warrant continuation of the service or program.

105 (4) Services or programs that are eligible for funding
106 under a pay-for-success contract are limited to:

107 (a) Early childhood care and education programs, including
108 prekindergarten and school readiness programs for children from
109 birth to 5 years of age.

110 (b) Education, workforce preparedness, and employment
111 programs, including school-to-work programs and alternative
112 education services.

113 (c) Public safety programs, including programs that reduce
114 recidivism and address juvenile justice.

115 (d) Health and human services, including drug and alcohol
116 addiction, mental health, chronic homelessness, supportive

19-00404A-18

20181084__

117 housing, and child welfare services and programs.

118 (e) Long-term, home-based, and community-based care
119 services and programs.

120 (5) The private entity may not view or receive any personal
121 client information that is otherwise confidential and exempt
122 from public records requirements.

123 (6) By April 1 annually, the agency shall provide a report
124 to the chairs of the legislative appropriations committees which
125 contains the data provided by each service provider under
126 paragraph (3) (f) and, if available, each evaluation from each
127 independent third-party evaluator.

128 (7) Funding provided by a private entity under a pay-for-
129 success contract is not considered a procurement item under s.
130 287.057.

131 (8) By December 1, 2018, the department shall prescribe
132 procedures to be used by an agency when executing a pay-for-
133 success contract with a private entity, consistent with this
134 section.

135 Section 2. This act shall take effect July 1, 2018.